

FILED

JUN 30 2017

PETER A. MOORE, JR., CLERK  
US DISTRICT COURT, EDNC  
BY PM DEP CLK

The United States District Court for North Carolina  
Eastern Division

Rosita Sabrosso-Rennick  
, Plaintiff

v.  
North Carolina Department of State Treasurer,

Defendant

Case No: 5:17-CV-00114-BO

**RESPONSE TO MOTION TO DISMISS AND**  
**MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

Comes Now Rosita Sabrosso- Rennick, and responds to the Defendant's Motion to Dismiss and also Request leave to file an First Amended Complaint (Proposed Complaint Attached) and asking the court I say:

1. The Defendant has filed a Motion to Dismiss alleging that it has not been served properly and that Plaintiff does not state a claim under NCGS 1A-1.
2. Plaintiff has amended her complaint to remove this claim, which makes the Defendant's Motion to Dismiss moot.
3. The Defendant further argues that the Court should dismiss the Complaint because Plaintiff served the incorrect party. Plaintiff admits,

based on research, that the Defendant is accurate in their statement. To remedy that issue, Plaintiff filed a Motion for the Clerk to Reissue Summonses to the correct Defendant. The Motion is pending before the Court and has not been ruled on.

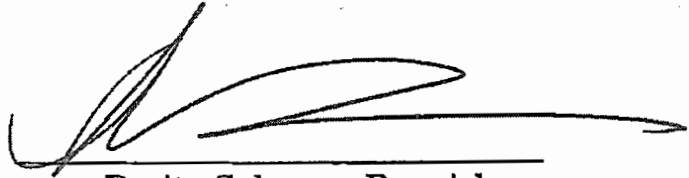
4. Fed. R. Civ. P. 15(a) states, in part, that "leave [to amend] shall be freely given when justice so requires." Lone Star Steakhouse & Saloon Inc. v. Alpha of Virginia, Inc., 43 F.3d 922, 940 (4th Cir. 1995). The United States Court of Appeals for the Fourth Circuit has consistently applied this standard when justice so required. *Id.* at 941.

5. In the case at bar, there is a complete absence of undue delay, bad faith or dilatory motive, undue prejudice, futility, or other compelling reason to deny the proposed amendments. Allowing the amendments will more clearly delineate Plaintiff's allegations. The clarification of these issues should ultimately prove helpful to Defendant and this Court. The proposed amendment is timely filed. This Motion should be allowed since no compelling reason exists to deny the request.

6. Plaintiff will suffer severe prejudice if the Court would be inclined the relief sought.

Plaintiff respectfully request that the Court deny the Defendant's Motion to Dismiss and Grant Plaintiff leave to Amend her Complaint.

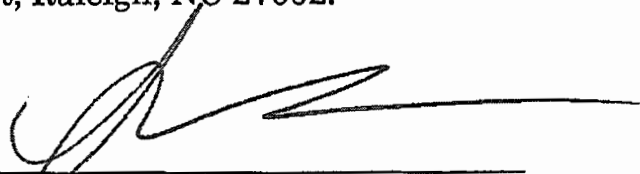
Respectfully,



Rosita Sabrosso-Rennick  
3802 Delverne Road  
Baltimore, Maryland 21218  
443-240-3260

#### CERTIFICATE OF SERVICE

I hereby certify that on this 19<sup>th</sup> day of June, 2017, a copy of Plaintiff's Motion for Extension was mailed first class mail postage prepaid to Robert Curran, North Carolina Department of Justice, Po Box 629, 114 West Edenton Street, Raleigh, NC 27602.



Rosita Sabrosso-Rennick